

### **REMARKS**

Presently, claims 1-66 and 82-99 are pending in the application. Independent claim 1 has been amended. New claims 82-99 have been added. Support for the amendment to claim 1, may be found for example in original claim 53. Support for the features of new claims 82-84 and 88-90 may be found, for example, on page 25-26 of the specification. Support for the features of new claims 85-86 and 91-92 may be found, for example, on page 15 of the specification. Support for the features of new claim 87 may be found, for example, in original claims 1 and 53. Support for the features of new claim 93 may be found, for example, on page 5 of the specification. Support for the features of new claim 94 may be found, for example, on page 21 of the specification. Support for the features of new claim 95 may be found, for example, on page 26 of the specification. Support for the features of new claim 96 may be found, for example, on page 15 of the specification. Support for the features of new claims 97-99 may be found, for example, in original claim 67. Accordingly, no new matter has been added by the foregoing amendments.

### ***Claim Rejection – § 102(b)***

The Examiner has rejected claims 1-8, 10-24, and 67-75 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,754,939 to Herz *et al.* (“Herz”). The Examiner contends that Herz teaches each and every element of the rejected claims. Applicants respectfully traverse this rejection.

Herz teaches a system and method for the electronic identification of desirable objects. Herz creates a “profile for the target object” which contains “attributes.” Attributes include: (1) long pieces of text (a newspaper story, a movie review, a product description or an advertisement), (2) short pieces of text (name of a movie's director, name of town from which an advertisement was placed, name of the language in which an article was written), (3) numeric measurements (price of a product, rating given to a movie, reading level of a book), (4) associations with other types of objects (list of actors in a movie, list of persons who have read a document) (5) measures of its popularity (how

often it is accessed) or of user satisfaction (number of complaints received). The determination as to whether an item will be desirable is “based on determining the similarity between a profile for the target object and the profiles of target objects for which the user (or a similar user) has provided positive feedback in the past,” (column 6).

For a rejection under § 102(b) to be proper, a reference must disclose, either explicitly or inherently, each and every element of the claimed invention. Applicants respectfully submit that Herz does not teach each and every element recited in independent claim 1.

Independent claim 1 recites:

A method for matching advertisements to subscribers, the method comprising:

receiving advertisement profiles that include traits associated with an intended target market for an associated advertisement;

gathering subscriber data from at least one source, wherein the subscriber data is selected from at least a subset of transactional data, public data, private data, and demographic data;

generating subscriber profiles based on at least a subset of gathered subscriber data, wherein the subscriber profiles predict traits about the subscribers without revealing any private data or raw transaction data associated with the subscribers;

correlating the advertisement profiles with the subscriber profiles;  
and

selecting targeted advertisements that meet a minimum correlation threshold.

Herz does not teach “receiving advertisement profiles that include traits associated with an intended target market for an associated advertisement,” as recited in claim 1. The advertisements described in Herz do not have an “intended target market,” nor do the profiles described have traits associated with a target market. Instead, Herz describes a “profile for the target object” described by “attributes”. According to Herz, the attributes of the profile are text and numbers that describe or are part of the “target object.” The text and numbers described thus do not relate to an “intended target market,” and are simply descriptive aspects of the “target object” itself. These attributes are not associated with any particular market or subdivision of a population considered as

buyers. Therefore, “receiving advertisement profiles that include traits associated with an intended target market for an associated advertisement,” as recited in claim 1 is not taught by Herz. Accordingly, Herz does not disclose all elements of independent claim 1.

Dependent claims 2-8 and 10-24 are believed to be allowable at least by their dependency on independent claim 1. Claims 67-75 have been canceled. Reconsideration and withdrawal of the Examiner’s rejection are respectfully requested.

***Claim Rejection – § 102(b)***

The Examiner has rejected claims 53-66 and 76-81 under 35 U.S.C. §102(e) as being unpatentable over U.S. Patent No. 6,463,585 to Hendricks *et al.* (“Hendricks”). The Examiner contends that Hendricks teaches each and every element of the rejected claims. Applicants respectfully traverse this rejection.

Hendricks teaches a system for providing television programming and targeted advertisements to consumers’ homes. In Hendricks, information is sent from a program controller to local storage and/or real-time display in a consumer’s terminal. The stored information may include control information, programming and/or advertisements. Additionally, Hendricks teaches that information related to users’ preferences and/viewing actions or habits may be observed, retrieved and analyzed, such that a particular consumer terminal may be identified to a desired target category. The target category, based for example on demographic information, is utilized to determine which advertisements to target at the consumer. Hendricks teaches that there are several different methods of conveying the desired advertisements to the audience. In one embodiment, Hendricks employs “feeder channels” to deliver the targeted advertisements. In such a system, when designated breaks in regular programming occur, the system switches to (or between) one or more alternate channel(s) that contain different, targeted programming (e.g., advertisements). The particular feeder channel that is displayed to the consumer may depend on the specific target audience. Thus, it may be advantageous to switch back and forth between the various feeder channels to display the most desirable ad. The feeder channel with the highest correlation to the target group is selected. Hendricks further teaches that the switching plan may also be stored locally at

the consumer's terminal. In another embodiment, the advertisements may be stored locally at the user's terminal for later display. Thus, the targeted advertisements are sent to the user's terminal prior to display and stored. When the designated program break occurs, the locally stored advertisement is retrieved and displayed.

Independent claim 53 recites:

A method for targeting advertisements to subscribers of a television delivery system, wherein the targeted advertisements are presented in advertisement opportunities within television program streams, the method comprising

monitoring subscriber interactions with a television;

aggregating the monitored subscriber interactions to generate viewing characteristics that identify traits associated with the subscribers but do not identify raw interaction data;

predicting subscriber traits not related to the subscriber interactions with the television by applying heuristic rules associated with the viewing characteristics;

creating subscriber profiles by combining at least some subset of the viewing characteristics and the subscriber traits;

receiving advertisement profiles that identify traits and characteristics of an intended target market of associated advertisements and a minimum correlation threshold;

correlating the advertisement profiles and the subscriber profiles;

identifying the subscribers meeting the correlation threshold for each of the associated advertisements as a target group; and

targeting the associated advertisements to the target groups.

Hendricks does not teach receiving ad profiles that identify a "minimum correlation threshold" or "identifying the subscribers meeting the correlation threshold." The Examiner argues that column 37, lines 13-33 of Hendricks, teach a "minimum correlation threshold." However, in this section Hendricks simply teaches determining the "advertisement with the highest overall ranking if that advertisement were the only advertisement to be placed in the program." The determining a highest overall ranking does not utilize a threshold of any kind.

Further, the Examiner argues that Hendricks teaches identifying subscribers meeting the correlation threshold. However, Hendricks actually teaches using “feeder channels for the programs that yield the largest Maximum Rank,” and assigning “the single advertisement that yielded the highest Overall Ranking.” The process described in Hendricks is different at least because there is no use of a correlation threshold and Hendricks does not identify the corresponding subscribers, but instead just assigns feeder channels to them. Accordingly, independent claim 53 is allowable over Hendricks.

Independent claim 61 recites:

A method for forming groups of subscribers within a television delivery system for the purpose of receiving targeted advertisements within advertisement opportunities in television program streams, the method comprising

retrieving demographic information for subscribers;

associating the demographic information of the subscribers with particular nodes of the television delivery system;

creating a demographic profile of the nodes by averaging the demographic information for each subscriber connected to the node; and

grouping the nodes based on a correlation associated with the demographic node profiles.

Hendricks does not teach “averaging the demographic information for each subscriber connected to the node,” nor does any other portion of Hendricks teach this aspect of claim 61. The passage cited by the Examiner teaches to “multiply the ranking for each group for each advertisement (Table H) by the breakdown percentage for that same group for that program (Table G).” Nowhere does this passage suggest averaging demographic information, averaging, or even demographics for that matter. As such, Hendricks cannot be said to teach “averaging the demographic information for each subscriber connected to the node.” Accordingly, independent claim 61 is allowable over Hendricks.

Dependent claims 54-60 and 62-66 are believed to be allowable at least by their dependency on independent claims 53 and 61, respectively. Claims 76-81 have been

canceled. Reconsideration and withdrawal of the Examiner's rejection of claims 54-60 and 62-66 are respectfully requested.

***Claim Rejection – § 103(a)***

The Examiner has rejected claims 9 and 25-52 under 35 U.S.C. § 103(a) as being unpatentable over Herz in view of Hendricks. Applicants respectfully traverse this rejection.

Even if the combination of Herz and Hendricks is proper, neither Herz nor Hendricks teach or suggest selecting advertisements that meet a “minimum correlation threshold,” as recited in claim 1. Therefore claim 1 is believed to allowable over the combination of Herz and Hendricks. Dependent claims 9 and 25-52 are believed to be allowable at least by their dependency on independent claim 1. Therefore, reconsideration and withdrawal of the Examiner's rejection is respectfully requested.

New independent claim 87, recites an “intended target market” and a “sufficient level of correlation.” For the same reasons described in relation to claims 1 and 53, claim 87 is believed to be patentable over Hendricks and Herz, both individually and in combination. Dependent claims 82-86 and 88-99 are believed to be allowable at least by their dependence on claim 1 and 87 respectively.

***Conclusion***

In view of the foregoing amendments and remarks, Applicants respectfully submit that the Examiner's rejections have been overcome, and that the application, including claims 1-66 and 82-99, is in condition for allowance. Reconsideration and withdrawal of the Examiner's rejection and an early Notice of Allowance are respectfully requested.

Respectfully submitted,

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